

RECEIVED July 29, 1993

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In the Matter of

Amendment of Part 90 of the
Commission's Rules to Adopt
Regulations for Automatic
Vehicle Monitoring Systems

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYFCC No. ~~93-61~~
PR Docket No. 93-61

93-61

REPLY COMMENTS

The Board of Trade of the City of Chicago ("CBOT" or "Board of Trade") and the Chicago Mercantile Exchange ("CME") (both of which may be referred to as "Exchanges") hereby submit this reply to comments filed on the FCC's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding which proposes changes to interim rules regulating Automatic Vehicle Monitoring ("AVM") systems.

INTRODUCTION

The CBOT and CME, both located in Chicago, Illinois, are the two leading futures exchanges in the United States, with combined trading activity representing approximately 77% of total U.S. futures trading volume. In 1992, that volume reached nearly 300 million contracts, with the combined notional dollar value of contracts traded on the Exchanges reaching approximately \$98 trillion. The Exchanges trade a variety of futures and options on futures contracts based on underlying commodities that range from agricultural products such as grain and livestock to financial products like Treasury securities and foreign currencies to innovative new contracts on catastrophe insurance and tailored "rolling spot" contracts. These marketplaces provide invaluable price discovery and risk management services for the scores of individual and institutional hedgers and investors who use our markets each day.

The Exchanges are subject to federal oversight by the Commodity Futures Trading Commission ("CFTC"), an independent administrative agency which must be periodically reauthorized by Congress. As a result of the most recent CFTC reauthorization legislation, all U.S. futures exchanges must meet statutory requirements relating to the recordation of trade information.

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In order to make trading more efficient and to respond to regulators and Congress, the CBOT and CME have begun a project to develop a wireless, hand-held trade recordation device, the automated data input terminal ("AUDIT™").

Over the past four years, the Exchanges have invested approximately \$7 million in the development of AUDIT™, the radio component of which is designed to operate as a Part 15 user on the 902-928 MHz band. The following provides a history of the development of AUDIT™, why the Exchanges selected Part 15 use on this band and concerns with the FCC's NPRM and the comments filed thus far.

BACKGROUND

Both Exchanges are composed of individual members and member firms. Individual members can trade for themselves or for others, either as independent brokers or on behalf of firms. The individual members are the only ones authorized to execute trades on the trading floor, which occurs through an open outcry system that incorporates hand signals by traders to clarify their oral bids and offers. This face-to-face open outcry system (in combination with a constant display of prices on quotation boards above the trading floors) allows these markets to provide the best price available for customers. Trades made through open outcry are documented through a system of recording and matching trades. All trades are settled each afternoon by the exchange's clearing facility, which is responsible for

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analysis to decipher trades written on the card with a special pen, and will immediately transmit that information to each Exchange's computer via radio wave communication.

As discussed above, CFTC reauthorization legislation, the Futures Trading Practices Act of 1992, requires implementation of regulatory requirements in statutory time frames. AUDIT™ is intended to assist us in meeting the enhanced audit trail requirements that Congress enacted. The legislation requires all U.S. exchanges to have an audit trail which will "accurately record (A) the times of trades in increments of no more than 1 minute in length; and (B) the sequence of trades for each floor trader and broker." By October 1995, the legislation will require us to mechanically record all times and sequence all trades by independent, verifiable and mechanical means. Our early development of the AUDIT™ unit should enable us to comply with the legislation, but an inability to operate as a Part 15 user on the 902-928 MHz band would severely impair our efforts.

DISCUSSION

The AUDIT™ development effort began with a bidders' conference and request for proposal. Vendors were invited to combine efforts to provide a system to meet the needs of the Exchanges. Three vendor teams were selected to develop a prototype AUDIT™ device. With respect to the communications component, one vendor proposed using infrared ("IR") technology, one proposed spread spectrum and the third proposed using either. The third vendor withdrew from the project.

In evaluating the prototype designs, the Exchanges have initially determined that spread spectrum offers more advantages in terms of cost and functionality than IR technology. Several reasons led to selecting a Part 15 communications component for the AUDIT™ hand-held terminal. First, it is essential that the device function in such a way that traders will want to use it and that it will not disrupt the way in which trading is currently (and successfully) conducted. Therefore, AUDIT™ has been developed by active exchange member traders in conjunction with selected vendors. Because the members chose to devote their efforts to development instead of system integration, the technical decision on what radio (band and type of device) would be appropriate was left to the vendor. In addition, the CFTC reauthorization legislation process placed time constraints on us. The vendor radio selected for AUDIT™ was already approved by the FCC as a Part 15 device, which certainly expedited our development efforts.

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Our vendors designed AUDIT™ to use a Part 15 radio already approved by the FCC with the understanding that operation of the device would be fairly easy to implement. The FCC has strongly encouraged development of products and technology using the Part 15 band. Rule amendments or other changes in the regulatory framework which could make it difficult or impossible to utilize these devices would be inconsistent with the FCC's prior position on Part 15 use. On a somewhat related issue, we urge the FCC not to adopt an exclusive licensing procedure; we agree with the FCC that all licensing should be on a non-exclusive basis.

The Exchanges have invested millions of dollars to develop AUDIT™, which is now entering the pre-production phase. The Exchanges anticipate substantial additional expenditures beyond the initial development investment to bring AUDIT™ to fruition to meet the Congressionally mandated requirements discussed above. It would indeed be an adverse consequence of the worst sort if potential changes in regulation of the 902-928 MHz band rendered our efforts useless. The cost of redesigning AUDIT™ to operate on another frequency combined with the cost and uncertainty of trying to obtain a license to operate it would be enormous. A redesign process also would result in a significant time delay in deploying the redesigned trading cards, which could place the Exchanges in significant jeopardy if we cannot meet the statutory deadline for implementation. The expense, uncertainty and delay caused by such a process would certainly be contrary to the public interest.

In addition to the problems of expense, delay and uncertainty in redesigning AUDIT™, there are other reasons that we would like to go forward with production of these devices as designed, operating as Part 15 users. As currently constructed, the device utilizes spread spectrum (specifically, direct sequence technology), which offers noise immunity that is imperative for the accurate operation of AUDIT™. If we are required to change the design of the device, the direct sequence technology which augments the efficiency and effectiveness of AUDIT™'s essential market function, may no longer be viable.

For the above stated reasons, the Exchanges are extremely concerned that the FCC's intention to redistribute the 902-928 MHz band could hinder our efforts to put AUDIT™ into operation on a timely basis. Obviously, we strongly object to any proposal that could result in excluding Part 15 users from the band.

In addition, we oppose the suggestion of some commentators that all Part 15 users be moved to the band edges. If we, as a Part 15 user, were to be moved to the band edge, that could critically impair our ability to use the spread spectrum technology that is so crucial to AUDIT™'s ability to record and track trades accurately. As a possible alternative, we urge the FCC to consider moving narrow-band high-powered forward links used by AVM systems to the band edges and eliminating the 912-918

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MHz narrow-band reservation for forward links. This would be beneficial for two reasons: 1) forward links require only very narrow portions of spectrum and would be able to operate at the edges more easily than wider spread spectrum devices; and 2) forward links have great potential to cause interference for other users of the band, which interference could be reduced by moving them to the band edges.

CONCLUSION

The CBOT and CME appreciate your careful consideration of the comments set forth above. As you can conclude from the foregoing, a great deal is at stake for our industry because of the Congressionally mandated standards which we are, and will in the future be, required to meet.

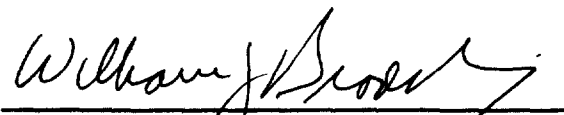
The Exchanges have invested significant human resources and substantial time, effort and money to develop AUDIT™ and its Part 15 communications component. An even greater investment is expected in order to continue and conclude this project.

The FCC itself has encouraged and approved use of Part 15 devices. Therefore, we urge the FCC to consider seriously all the issues we have raised in this letter. In addition, the Exchanges recognize that the FCC has a responsibility to protect the public; we point out that AUDIT™ is intended to ensure protection of those who use our marketplace. The Exchanges understand that the concerns of many constituencies must be taken into account when amending the regulations for operating on the 902-928 MHz band. The Exchanges respectfully request, however, that the concerns of the CBOT and CME be accorded attention by the FCC and that the FCC endeavor to ensure that the band remains open and accommodating to current and potential Part 15 users like the CBOT and CME.

Sincerely,



Thomas R. Donovan
President & CEO
Chicago Board of Trade



William J. Brodsky
President & CEO
Chicago Mercantile Exchange